



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

EAG:AL/AH  
F.#2011R00006

*271 Cadman Plaza East  
Brooklyn, New York 11201*

March 4, 2014

By Hand and ECF

The Honorable Kiyo A. Matsumoto  
United States District Judge  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: United States v. Neil Messina  
Criminal Docket No. 11-31 (S-1) (KAM)

Dear Judge Matsumoto:

The government respectfully submits this letter in response to an email request that a member of the media submitted to the government on March 3, 2014. In particular, the member of the media requested disclosure of the following exhibits, which were admitted into evidence in the Fatico hearing conducted in the above-captioned case on February 18 and 19, 2014: Government Exhibits 1, 2, 3, 4, 5, 6, 3500-MB-3 and 3500-AG-7 (together, the "Requested Exhibits"). For the reasons set forth below, the government does not object to the disclosure of the Requested Exhibits to members of the media, but requests authorization from the Court prior to disclosing the Requested Exhibits. The defendant also does not object to disclosure.

Under the common law, the public has a "general right to inspect and copy public records and documents, including judicial records and documents." Nixon v. Warner Communications, Inc., 435 U.S. 589, 597 (1978). Similarly, under the First Amendment, the public has a "qualified . . . right to attend judicial proceedings and to access certain judicial documents." Hartford Courant Co. v. Pellegrino, 380 F.3d 83, 91 (2d Cir. 2004); see also Press-Enterprise Co. v. Superior Court of Cal., 478 U.S. 1, 9 (1986). According to the Second Circuit, "[t]ransparency is pivotal to public perception of the judiciary's legitimacy and independence," though it "must at times yield to more compelling interests." United States v. Aref, 533 F.3d 72, 83 (2d Cir. 2008).

In this case, the Requested Exhibits were admitted into evidence on the record in open court, and neither the Requested Exhibits themselves nor the transcript of the hearing

